

SECOND REGULAR SESSION

HOUSE BILL NO. 1932

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE GEORGE.

Read 1st time February 13, 2002, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

4561L.01I

AN ACT

To repeal sections 288.030, 288.032, 288.034, 288.036, 288.038, 288.060, 288.090, 288.100, 288.110, 288.120, 288.121, and 288.122, RSMo, and to enact in lieu thereof twelve new sections relating to employment security, with an emergency clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 288.030, 288.032, 288.034, 288.036, 288.038, 288.060, 288.090, 288.100, 288.110, 288.120, 288.121, and 288.122, RSMo, are repealed and twelve new sections enacted in lieu thereof, to be known as sections 288.030, 288.032, 288.034, 288.036, 288.037, 288.038, 288.060, 288.090, 288.100, 288.110, 288.120, and 288.121, to read as follows:

288.030. 1. As used in this chapter, unless the context clearly requires otherwise:

(1) "Appeals tribunal" means a referee or a body consisting of three referees appointed to conduct hearings and make decisions on appeals from administrative determinations, petitions for reassessment, and claims referred pursuant to subsection 2 of section 288.070;

(2) "Base period" means the first four of the last five completed calendar quarters immediately preceding the first day of an individual's benefit year;

(3) "Benefit year" means the one-year period beginning with the first day of the first week with respect to which an insured worker first files an initial claim for determination of such worker's insured status, and thereafter the one-year period beginning with the first day of the first week with respect to which the individual, providing the individual is then an insured worker, next files such an initial claim after the end of the individual's last preceding benefit year;

(4) "Benefits" means the money payments payable to an insured worker, as provided in

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

14 this chapter, with respect to such insured worker's unemployment;

15 (5) "Calendar quarter" means the period of three consecutive calendar months ending
16 on March thirty-first, June thirtieth, September thirtieth, or December thirty-first;

17 (6) "Claimant" means an individual who has filed an initial claim for determination of
18 such individual's status as an insured worker, a notice of unemployment, a certification for
19 waiting week credit, or a claim for benefits;

20 (7) "Commission" means the labor and industrial relations commission of Missouri;

21 (8) "Common paymaster" means two or more related corporations in which one of the
22 corporations has been designated to disburse remuneration to concurrently employed individuals
23 of any of the related corporations;

24 (9) "Contributions" means the money payments to the unemployment compensation fund
25 required by this chapter, exclusive of interest and penalties;

26 (10) "Decision" means a ruling made by an appeals tribunal or the commission after a
27 hearing;

28 (11) "Deputy" means a representative of the division designated to make investigations
29 and administrative determinations on claims or matters of employer liability or to perform related
30 work;

31 (12) "Determination" means any administrative ruling made by the division without a
32 hearing;

33 (13) "Director" means the administrative head of the division of employment security;

34 (14) "Division" means the division of employment security which administers this
35 chapter;

36 (15) "Employing unit" means any individual, organization, partnership, corporation,
37 common paymaster, or other legal entity, including the legal representatives thereof, which has
38 or, subsequent to June 17, 1937, had in its employ one or more individuals performing services
39 for it within this state. All individuals performing services within this state for any employing
40 unit which maintains two or more separate establishments within this state shall be deemed to
41 be employed by a single employing unit for all the purposes of this chapter. Each individual
42 engaged to perform or to assist in performing the work of any person in the service of an
43 employing unit shall be deemed to be engaged by such employing unit for all the purposes of this
44 chapter, whether such individual was engaged or paid directly by such employing unit or by such
45 person, provided the employing unit had actual or constructive knowledge of the work;

46 (16) "Employment office" means a free public employment office operated by this or any
47 other state as a part of a state controlled system of public employment offices including any
48 location designated by the state as being a part of the one-stop career system;

49 (17) "Equipment" means a motor vehicle, straight truck, tractor, semi-trailer, full trailer,

50 any combination of these and any other type of equipment used by authorized carriers in the
51 transportation of property for hire;

52 (18) "Fund" means the unemployment compensation fund established by this chapter;

53 (19) "Governmental entity" means the state, any political subdivision thereof, any
54 instrumentality of any one or more of the foregoing which is wholly owned by this state and one
55 or more other states or political subdivisions and any instrumentality of this state or any political
56 subdivision thereof and one or more other states or political subdivisions;

57 (20) "Initial claim" means an application, in a form prescribed by the division, made by
58 an individual for the determination of the individual's status as an insured worker;

59 (21) "Insured work" means employment in the service of an employer;

60 (22) As to initial claims filed after December 31, 1990, "insured worker" means a worker
61 who has been paid wages for insured work in the amount of one thousand dollars or more in at
62 least one calendar quarter of such worker's base period and total wages in the worker's base
63 period equal to at least one and one-half times the insured wages in that calendar quarter of the
64 base period in which the worker's insured wages were the highest, or in the alternative, a worker
65 who has been paid wages in at least two calendar quarters of such worker's base period and
66 whose total base period wages are at least one and one-half times the maximum taxable wage
67 base, taxable to any one employer, in accordance with subdivision (1) of section 288.036. For
68 the purposes of this definition, "wages" shall be considered as wage credits with respect to any
69 benefit year, only if such benefit year begins subsequent to the date on which the employing unit
70 by which such wages were paid has become an employer;

71 (23) "Lessor", in a lease, means the party granting the use of equipment, with or without
72 a driver to another;

73 (24) "Referee" means a representative of the division designated to serve on an appeals
74 tribunal;

75 (25) "State" includes, in addition to the states of the United States of America, the
76 District of Columbia, Puerto Rico, the Virgin Islands, and the Dominion of Canada;

77 (26) (a) An individual shall be deemed "totally unemployed" in any week during which
78 the individual performs no services and with respect to which no wages are payable to such
79 individual;

80 (b) An individual shall be deemed "partially unemployed" in any week of less than
81 full-time work if the wages payable to such individual for such week do not equal or exceed the
82 individual's weekly benefit amount [plus twenty dollars] **and that part of his or her wages for**
83 **such week in excess of twenty percent of the maximum state weekly benefit amount in**
84 **effect as of the first day of the week being claimed;**

85 (c) An individual's "week of unemployment" shall begin the first day of the calendar

86 week in which the individual registers at an employment office except that, if for good cause the
87 individual's registration is delayed, the week of unemployment shall begin the first day of the
88 calendar week in which the individual would have otherwise registered. The requirement of
89 registration may by regulation be postponed or eliminated in respect to claims for partial
90 unemployment or may by regulation be postponed in case of a mass layoff due to a temporary
91 cessation of work;

92 (27) "Waiting week" means the first week of unemployment for which a claim is allowed
93 in a benefit year or if no waiting week has occurred in a benefit year in effect on the effective
94 date of a shared work plan, the first week of participation in a shared work unemployment
95 compensation program pursuant to section 288.500.

96 2. The Missouri average annual wage shall be computed as of June thirtieth of each year,
97 and shall be applicable to the following calendar year. The Missouri average annual wage shall
98 be calculated by dividing the total wages reported as paid for insured work in the preceding
99 calendar year by the average of mid-month employment reported by employers for the same
100 calendar year. The Missouri average weekly wage shall be computed by dividing the Missouri
101 average annual wage as computed in this subsection by fifty-two.

288.032. 1. After December 31, 1977, "employer" means:

2 (1) Any employing unit which in any calendar quarter in either the current or preceding
3 calendar year paid for service in employment wages of one thousand five hundred dollars or
4 more except that for the purposes of this definition, wages paid for "agricultural labor" as defined
5 in paragraph (a) of subdivision (1) of subsection 12 of section 288.034 and for "domestic
6 services" as defined in subdivisions (2) and [(12)] **(13)** of subsection 12 of section 288.034 shall
7 not be considered;

8 (2) Any employing unit which for some portion of a day in each of twenty different
9 calendar weeks, whether or not such weeks were consecutive, in either the current or the
10 preceding calendar year, had in employment at least one individual (irrespective of whether the
11 same individual was in employment in each such day); except that for the purposes of this
12 definition, services performed in "agricultural labor" as defined in paragraph (a) of subdivision
13 (1) of subsection 12 of section 288.034 and in "domestic services" as defined in subdivisions (2)
14 and [(12)] **(13)** of subsection 12 of section 288.034 shall not be considered;

15 (3) Any governmental entity for which service in employment as defined in subsection
16 7 of section 288.034 is performed;

17 (4) Any employing unit for which service in employment as defined in subsection 8 of
18 section 288.034 is performed during the current or preceding calendar year;

19 (5) Any employing unit for which service in employment as defined in paragraph (b) of
20 subdivision (1) of subsection 12 of section 288.034 is performed during the current or preceding

21 calendar year;

22 (6) Any employing unit for which service in employment as defined in subsection 13 of
23 section 288.034 is performed during the current or preceding calendar year;

24 (7) Any individual, type of organization or employing unit which has been determined
25 to be a successor pursuant to section 288.110;

26 (8) Any individual, type of organization or employing unit which has elected to become
27 subject to this law pursuant to subdivision (1) of subsection 3 of section 288.080;

28 (9) Any individual, type of organization or employing unit which, having become an
29 employer, has not pursuant to section 288.080 ceased to be an employer;

30 (10) Any employing unit subject to the Federal Unemployment Tax Act or which, as a
31 condition for approval of this law for full tax credit against the tax imposed by the Federal
32 Unemployment Tax Act, is required, pursuant to such act, to be an employer pursuant to this law.

33 2. (1) Notwithstanding any other provisions of this law, any employer, individual,
34 organization, partnership, corporation, other legal entity or employing unit that meets the
35 definition of "lessor employing unit", as defined in subdivision (5) of this subsection, shall be
36 liable for contributions on wages paid by the lessor employing unit to individuals performing
37 services for client lessees of the lessor employing unit. Unless the lessor employing unit has
38 timely complied with the provisions of subdivision (3) of this subsection, any employer,
39 individual, organization, partnership, corporation, other legal entity or employing unit which is
40 leasing individuals from any lessor employing unit shall be jointly and severally liable for any
41 unpaid contributions, interest and penalties due pursuant to this law from any lessor employing
42 unit attributable to wages for services performed for the client lessee entity by individuals leased
43 to the client lessee entity, and the lessor employing unit shall keep separate records and submit
44 separate quarterly contribution and wage reports for each of its client lessee entities. Delinquent
45 contributions, interest and penalties shall be collected in accordance with the provisions of this
46 chapter.

47 (2) Notwithstanding the provisions of subdivision (1) of this subsection, any
48 governmental entity or nonprofit organization that meets the definition of "lessor employing
49 unit", as defined in subdivision (5) of this subsection, and has elected to become liable for
50 payments in lieu of contributions as provided in subsection 3 of section 288.090, shall pay the
51 division payments in lieu of contributions, interest, penalties and surcharges in accordance with
52 section 288.090 on benefits paid to individuals performing services for the client lessees of the
53 lessor employing unit. If the lessor employing unit has not timely complied with the provisions
54 of subdivision (3) of this subsection, any client lessees with services attributable to and
55 performed for the client lessees shall be jointly and severally liable for any unpaid payments in
56 lieu of contributions, interest, penalties and surcharges due pursuant to this law. The lessor

57 employing unit shall keep separate records and submit separate quarterly contribution and wage
58 reports for each of its client lessees. Delinquent payments in lieu of contributions, interest,
59 penalties and surcharges shall be collected in accordance with subsection 3 of section 288.090.
60 The election to be liable for payments in lieu of contributions made by a governmental entity or
61 nonprofit organization meeting the definition of "lessor employing unit", may be terminated by
62 the division in accordance with subsection 3 of section 288.090.

63 (3) In order to relieve a client lessees from joint and several liability and the separate
64 reporting requirements imposed pursuant to this subsection, any lessor employing unit may post
65 and maintain a surety bond issued by a corporate surety authorized to do business in Missouri
66 in an amount equivalent to the contributions or payments in lieu of contributions for which the
67 lessor employing unit was liable in the last calendar year in which he or she accrued
68 contributions or payments in lieu of contributions, or one hundred thousand dollars, whichever
69 amount is the greater, to ensure prompt payment of contributions or payments in lieu of
70 contributions, interest, penalties and surcharges for which the lessor employing unit may be, or
71 becomes, liable pursuant to this law. In lieu of a surety bond, the lessor employing unit may
72 deposit in a depository designated by the director, securities with marketable value equivalent
73 to the amount required for a surety bond. The securities so deposited shall include authorization
74 to the director to sell any securities in an amount sufficient to pay any contributions or payments
75 in lieu of contributions, interest, penalties and surcharges which the lessor employing unit fails
76 to promptly pay when due. In lieu of a surety bond or securities as described in this subdivision,
77 any lessor employing unit may provide the director with an irrevocable letter of credit, as defined
78 in section 400.5-103, RSMo, issued by any state or federally chartered financial institution, in
79 an amount equivalent to the amount required for a surety bond as described in this subdivision.
80 In lieu of a surety bond, securities or an irrevocable letter of credit, a lessor employing unit may
81 obtain a certificate of deposit issued by any state or federally chartered financial institution, in
82 an amount equivalent to the amount required for a surety bond as described in this subdivision.
83 The certificate of deposit shall be pledged to the director until release by the director. As used
84 in this subdivision, the term "certificate of deposit" means a certificate representing any deposit
85 of funds in a state or federally chartered financial institution for a specified period of time which
86 earns interest at a fixed or variable rate, where such funds cannot be withdrawn prior to a
87 specified time without forfeiture of some or all of the earned interest.

88 (4) Any lessor employing unit which is currently engaged in the business of leasing
89 individuals to client lessees shall comply with the provisions of subdivision (3) of this subsection
90 by September 28, 1992. Lessor employing units not currently engaged in the business of leasing
91 individuals to client lessees shall comply with subdivision (3) of this subsection before entering
92 into a written lease agreement with client lessees.

93 (5) As used in this subsection, the term "lessor employing unit" means an independently
94 established business entity, governmental entity as defined in subsection 1 of section 288.030
95 or nonprofit organization as defined in subsection 3 of section 288.090 which, pursuant to a
96 written lease agreement between the lessor employing unit and the client lessees, engages in the
97 business of providing individuals to any other employer, individual, organization, partnership,
98 corporation, other legal entity or employing unit referred to in this subsection as a client lessee.

99 (6) The provisions of this subsection shall not be applicable to private employment
100 agencies who provide their employees to employers on a temporary help basis provided the
101 private employment agencies are liable as employers for the payment of contributions on wages
102 paid to temporary workers so employed.

103 3. After September 30, 1986, notwithstanding any provision of section 288.034, for the
104 purpose of this law, in no event shall a for-hire motor carrier as regulated by the Missouri
105 division of motor carrier and railroad safety or whose operations are confined to a commercial
106 zone be determined to be the employer of a lessor as defined in section 288.030 or of a driver
107 receiving remuneration from a lessor, provided, however, the term "for-hire motor carrier" shall
108 in no event include an organization described in section 501(c)(3) of the Internal Revenue Code
109 or any governmental entity.

110 4. The owner or operator of a beauty salon or similar establishment shall not be
111 determined to be the employer of a person who utilizes the facilities of the owner or operator but
112 who receives neither salary, wages or other compensation from the owner or operator and who
113 pays the owner or operator rent or other payments for the use of the facilities.

288.034. 1. "Employment" means service, including service in interstate commerce,
2 performed for wages or under any contract of hire, written or oral, express or implied, and
3 notwithstanding any other provisions of this section, service with respect to which a tax is
4 required to be paid under any federal unemployment tax law imposing a tax against which credit
5 may be taken for contributions required to be paid into a state unemployment fund or which, as
6 a condition for full tax credit against the tax imposed by the Federal Unemployment Tax Act,
7 is required to be covered under this law.

8 2. The term "employment" shall include an individual's entire service, performed within
9 or both within and without this state if:

10 (1) The service is localized in this state; or

11 (2) The service is not localized in any state but some of the service is performed in this
12 state and the base of operations, or, if there is no base of operations, then the place from which
13 such service is directed or controlled, is in this state; or the base of operations or place from
14 which such service is directed or controlled is not in any state in which some part of the service
15 is performed but the individual's residence is in this state.

16 3. Service performed by an individual for wages shall be deemed to be employment
17 subject to this law:

18 (1) If covered by an election filed and approved pursuant to subdivision (2) of subsection
19 3 of section 288.080;

20 (2) If covered by an arrangement pursuant to section 288.340 between the division and
21 the agency charged with the administration of any other state or federal unemployment insurance
22 law, pursuant to which all services performed by an individual for an employing unit are deemed
23 to be performed entirely within this state.

24 4. Service shall be deemed to be localized within a state if the service is performed
25 entirely within such state; or the service is performed both within and without such state, but the
26 service performed without such state is incidental to the individual's service within the state; for
27 example, is temporary or transitory in nature or consists of isolated transactions.

28 5. Service performed by an individual for remuneration shall be deemed to be
29 employment subject to this law unless it is shown to the satisfaction of the division that such
30 services were performed by an independent contractor. In determining the existence of the
31 independent contractor relationship, the common law of agency right to control shall be applied.
32 The common law of agency right to control test shall include but not be limited to: if the alleged
33 employer retains the right to control the manner and means by which the results are to be
34 accomplished, the individual who performs the service is an employee. If only the results are
35 controlled, the individual performing the service is an independent contractor.

36 6. The term "employment" shall include service performed for wages as an agent-driver
37 or commission-driver engaged in distributing meat products, vegetable products, fruit products,
38 bakery products, beverages (other than milk), or laundry or dry-cleaning services, for his or her
39 principal; or as a traveling or city salesman, other than as an agent-driver or commission-driver,
40 engaged upon a full-time basis in the solicitation on behalf of, and the transmission to, his or her
41 principal (except for sideline sales activities on behalf of some other person) of orders from
42 wholesalers, retailers, contractors, or operators of hotels, restaurants, or other similar
43 establishments for merchandise for resale or supplies for use in their business operations,
44 provided:

45 (1) The contract of service contemplates that substantially all of the services are to be
46 performed personally by such individual; and

47 (2) The individual does not have a substantial investment in facilities used in connection
48 with the performance of the services (other than in facilities for transportation); and

49 (3) The services are not in the nature of a single transaction that is not part of a
50 continuing relationship with the person for whom the services are performed.

51 7. Service performed by an individual in the employ of this state or any political

52 subdivision thereof or any instrumentality of any one or more of the foregoing which is wholly
53 owned by this state and one or more other states or political subdivisions, or any service
54 performed in the employ of any instrumentality of this state or of any political subdivision
55 thereof, and one or more other states or political subdivisions, provided that such service is
56 excluded from "employment" as defined in the Federal Unemployment Tax Act by Section
57 3306(c)(7) of that act and is not excluded from "employment" pursuant to subsection 9 of this
58 section, shall be "employment" subject to this law.

59 8. Service performed by an individual in the employ of a corporation or any community
60 chest, fund, or foundation organized and operated exclusively for religious, charitable, scientific,
61 testing for public safety, literary, or educational purposes, or for the prevention of cruelty to
62 children or animals, no part of the net earnings of which inures to the benefit of any private
63 shareholder or individual, or other organization described in Section 501(c)(3) of the Internal
64 Revenue Code which is exempt from income tax under Section 501(a) of that code if the
65 organization had four or more individuals in employment for some portion of a day in each of
66 twenty different weeks whether or not such weeks were consecutive within a calendar year
67 regardless of whether they were employed at the same moment of time shall be "employment"
68 subject to this law.

69 9. For the purposes of subsections 7 and 8 of this section, the term "employment" does
70 not apply to service performed:

71 (1) In the employ of a church or convention or association of churches, or an
72 organization which is operated primarily for religious purposes and which is operated,
73 supervised, controlled, or principally supported by a church or convention or association of
74 churches; or

75 (2) By a duly ordained, commissioned, or licensed minister of a church in the exercise
76 of such minister's ministry or by a member of a religious order in the exercise of duties required
77 by such order; or

78 (3) In the employ of a governmental entity referred to in subdivision (3) of subsection
79 1 of section 288.032 if such service is performed by an individual in the exercise of duties:

80 (a) As an elected official;

81 (b) As a member of a legislative body, or a member of the judiciary, of a state or political
82 subdivision;

83 (c) As a member of the state national guard or air national guard;

84 (d) As an employee serving on a temporary basis in case of fire, storm, snow, earthquake,
85 flood or similar emergency;

86 (e) In a position which, under or pursuant to the laws of this state, is designated as (i) a
87 major nontenured policy-making or advisory position, or (ii) a policy-making or advisory

88 position the performance of the duties of which ordinarily does not require more than eight hours
89 per week; or

90 (4) In a facility conducted for the purpose of carrying out a program of rehabilitation for
91 individuals whose earning capacity is impaired by age or physical or mental deficiency or injury
92 or providing remunerative work for individuals who because of their impaired physical or mental
93 capacity cannot be readily absorbed in the competitive labor market, by an individual receiving
94 such rehabilitation or remunerative work; or

95 (5) As part of an unemployment work-relief or work-training program assisted or
96 financed in whole or in part by any federal agency or an agency of a state or political subdivision
97 thereof, by an individual receiving such work relief or work training; or

98 (6) By an inmate of a custodial or penal institution; or

99 (7) In the employ of a school, college, or university, if such service is performed (i) by
100 a student who is enrolled and is regularly attending classes at such school, college, or university,
101 or (ii) by the spouse of such a student, if such spouse is advised, at the time such spouse
102 commences to perform such service, that (I) the employment of such spouse to perform such
103 service is provided under a program to provide financial assistance to such student by such
104 school, college, or university, and (II) such employment will not be covered by any program of
105 unemployment insurance.

106 10. The term "employment" shall include the service of an individual who is a citizen
107 of the United States, performed outside the United States (except in Canada), if:

108 (1) The employer's principal place of business in the United States is located in this state;
109 or

110 (2) The employer has no place of business in the United States, but:

111 (a) The employer is an individual who is a resident of this state; or

112 (b) The employer is a corporation which is organized under the laws of this state; or

113 (c) The employer is a partnership or a trust and the number of the partners or trustees
114 who are residents of this state is greater than the number who are residents of any one other state;
115 or

116 (3) None of the criteria of subdivisions (1) and (2) of this subsection is met but the
117 employer has elected coverage in this state or, the employer having failed to elect coverage in
118 any state, the individual has filed a claim for benefits, based on such service, under the law of
119 this state;

120 (4) As used in this subsection and in subsection 11 of this section, the term "United
121 States" includes the states, the District of Columbia and the Commonwealth of Puerto Rico.

122 11. An "American employer", for the purposes of subsection 10 of this section, means
123 a person who is:

- 124 (1) An individual who is a resident of the United States; or
125 (2) A partnership, if two-thirds or more of the partners are residents of the United States;
126 or
127 (3) A trust, if all of the trustees are residents of the United States; or
128 (4) A corporation organized under the laws of the United States or of any state.
- 129 12. The term "employment" shall not include:
- 130 (1) Service performed by an individual in agricultural labor;
- 131 (a) For the purposes of this subdivision, the term "agricultural labor" means remunerated
132 service performed:
- 133 a. On a farm, in the employ of any person, in connection with cultivating the soil, or in
134 connection with raising or harvesting any agricultural or horticultural commodity, including the
135 raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and
136 furbearing animals and wildlife;
- 137 b. In the employ of the owner or tenant or other operator of a farm, in connection with
138 the operation, management, conservation, improvement, or maintenance of such farm and its
139 tools and equipment, or in salvaging timber or clearing land of brush and other debris left by a
140 hurricane, if the major part of such service is performed on a farm;
- 141 c. In connection with the production or harvesting of any commodity defined as an
142 agricultural commodity in Section 15(g) of the Federal Agricultural Marketing Act, as amended
143 (46 Stat. 1550, Sec. 3; 12 U.S.C. 1441j), or in connection with the ginning of cotton, or in
144 connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not
145 owned or operated for profit, used exclusively for supplying and storing water for farming
146 purposes;
- 147 d. i. In the employ of the operator of a farm in handling, planting, drying, packing,
148 packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a
149 carrier for transportation to market, in its unmanufactured state, any agricultural or horticultural
150 commodity; but only if such operator produced more than one-half of the commodity with
151 respect to which such service is performed;
- 152 ii. In the employ of a group of operators of farms (or a cooperative organization of which
153 such operators are members) in the performance of services described in item i of this
154 subparagraph, but only if such operators produced more than one-half of the commodity with
155 respect to which such service is performed;
- 156 iii. The provisions of items i and ii of this subparagraph shall not be deemed to be
157 applicable with respect to service performed in connection with commercial canning or
158 commercial freezing or in connection with any agricultural or horticultural commodity after its
159 delivery to a terminal market for distribution for consumption; or

e. On a farm operated for profit if such service is not in the course of the employer's trade or business. As used in this paragraph, the term "farm" includes stock, dairy, poultry, fruit, furbearing animals, and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other similar structures, used primarily for the raising of agricultural or horticultural commodities, and orchards;

(b) The term "employment" shall include service performed after December 31, 1977, by an individual in agricultural labor as defined in paragraph (a) of this subdivision when such service is performed for a person who, during any calendar quarter, paid remuneration in cash of twenty thousand dollars or more to individuals employed in agricultural labor or for some portion of a day in a calendar year in each of twenty different calendar weeks, whether or not such weeks were consecutive, employed in agricultural labor ten or more individuals, regardless of whether they were employed at the same moment of time;

(c) For the purposes of this subsection any individual who is a member of a crew furnished by a crew leader to perform service in agricultural labor for any other person shall be considered as employed by such crew leader:

a. If such crew leader holds a valid certificate of registration under the Farm Labor Contractor Registration Act of 1963; or substantially all the members of such crew operate or maintain tractors, mechanized harvesting or crop-dusting equipment, or any other mechanized equipment, which is provided by such crew leader; and

b. If such individual is not in employment by such other person;

c. If any individual is furnished by a crew leader to perform service in agricultural labor for any other person and that individual is not in the employment of the crew leader:

i. Such other person and not the crew leader shall be treated as the employer of such individual; and

ii. Such other person shall be treated as having paid cash remuneration to such individual in an amount equal to the amount of cash remuneration paid to such individual by the crew leader (either on his or her own behalf or on behalf of such other person) for the service in agricultural labor performed for such other person;

d. For the purposes of this subsection, the term "crew leader" means an individual who:

i. Furnishes individuals to perform service in agricultural labor for any other person;

ii. Pays (either on his or her own behalf or on behalf of such other person) the individuals so furnished by him or her for the service in agricultural labor performed by them; and

iii. Has not entered into a written agreement with such other person under which such individual is designated as in employment by such other person;

(2) Domestic service in a private home except as provided in subsection 13 of this section;

196 (3) Service performed by an individual under the age of eighteen years in the delivery
197 or distribution of newspapers or shopping news but shall not include delivery or distribution to
198 any point for subsequent delivery or distribution;

199 (4) Service performed by an individual in, and at the time of, the sale of newspapers or
200 magazines to ultimate consumers under an arrangement under which the newspapers or
201 magazines are to be sold by him or her at a fixed price, his or her compensation being based on
202 the retention of the excess of such price over the amount at which the newspapers or magazines
203 are charged to him or her, whether or not he or she is guaranteed a minimum amount of
204 compensation for such service, or is entitled to be credited with the unsold newspapers or
205 magazines turned back;

206 (5) Service performed by an individual in the employ of his or her son, daughter, or
207 spouse, and service performed by a child under the age of twenty-one in the employ of his or her
208 father or mother;

209 (6) Except as otherwise provided in this law, service performed in the employ of a
210 corporation, community chest, fund or foundation, organized and operated exclusively for
211 religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty
212 to children or animals, no part of the net earnings of which inures to the benefit of any private
213 shareholder or individual;

214 (7) Services with respect to which unemployment insurance is payable under an
215 unemployment insurance system established by an act of Congress;

216 (8) Service performed in the employ of a foreign government;

217 (9) Service performed in the employ of an instrumentality wholly owned by a foreign
218 government:

219 (a) If the service is of a character similar to that performed in foreign countries by
220 employees of the United States government or of an instrumentality thereof; and

221 (b) If the division finds that the foreign government, with respect to whose
222 instrumentality exemption is claimed, grants an equivalent exemption with respect to similar
223 service performed in the foreign country by employees of the United States government and of
224 instrumentalities thereof. The certification of the United States Secretary of State to the United
225 States Secretary of Treasury shall constitute prima facie evidence of such equivalent exemption;

226 (10) Service covered by an arrangement between the division and the agency charged
227 with the administration of any other state or federal unemployment insurance law pursuant to
228 which all services performed by an individual for an employing unit during the period covered
229 by the employing unit's approved election are deemed to be performed entirely within the
230 jurisdiction of such other state or federal agency;

231 (11) Service performed in any calendar quarter in the employ of a school, college or

232 university not otherwise excluded, if such service is performed by a student who is enrolled and
233 regularly attending classes at such school, college, or university, and the remuneration for such
234 service does not exceed fifty dollars (exclusive of board, room, and tuition);

235 (12) Service performed by an individual for a person as a licensed insurance agent, a
236 licensed insurance broker, or an insurance solicitor, if all such service performed by such
237 individual for such person is performed for remuneration solely by way of commissions;

238 (13) Domestic service performed in the employ of a local college club or of a local
239 chapter of a college fraternity or sorority, except as provided in subsection 13 of this section;

240 (14) Services performed after March 31, 1982, in programs authorized and funded by
241 the Comprehensive Employment and Training Act by participants of such programs, except those
242 programs with respect to which unemployment insurance coverage is required by the
243 Comprehensive Employment and Training Act or regulations issued pursuant thereto;

244 (15) Service performed by an individual who is enrolled at a nonprofit or public
245 educational institution which normally maintains a regular faculty and curriculum and normally
246 has a regularly organized body of students in attendance at the place where its educational
247 activities are carried on, as a student in a full-time program, taken for credit at such institution,
248 which combines academic instruction with work experience, if such service is an integral part
249 of such program, and such institution has so certified to the employer; except, that this
250 subdivision shall not apply to service performed in a program established for or on behalf of an
251 employer or group of employers;

252 (16) Services performed by a licensed real estate salesperson or licensed real estate
253 broker if at least eighty percent of the remuneration, whether or not paid in cash, for the services
254 performed rather than to the number of hours worked is directly related to sales performed
255 pursuant to a written contract between such individual and the person for whom the services are
256 performed and such contract provides that the individual will not be treated as an employee with
257 respect to such services for federal tax purposes;

258 (17) Services performed as a direct seller who is engaged in the trade or business of the
259 delivering or distribution of newspapers or shopping news, including any services directly related
260 to such trade or business, or services performed as a direct seller who is engaged in the trade or
261 business of selling, or soliciting the sale of, consumer products in the home or otherwise than in,
262 or affiliated with, a permanent, fixed retail establishment, if eighty percent or more of the
263 remuneration, whether or not paid in cash, for the services performed rather than the number of
264 hours worked is directly related to sales performed pursuant to a written contract between such
265 direct seller and the person for whom the services are performed, and such contract provides that
266 the individual will not be treated as an employee with respect to such services for federal tax
267 purposes;

(18) Services performed as a volunteer research subject who is paid on a per study basis for scientific, medical or drug-related testing for any organization other than one described in Section 501(c)(3) of the Internal Revenue Code or any governmental entity.

13. The term "employment" shall include domestic service as defined in subdivisions (2) and [(12)] **(13)** of subsection 12 of this section performed after December 31, 1977, if the employing unit for which such service is performed paid cash wages of one thousand dollars or more for such services in any calendar quarter after December 31, 1977.

14. The term "employment" shall include or exclude the entire service of an individual for an employing unit during a pay period in which such individual's services are not all excluded under the foregoing provisions, on the following basis: if the services performed during one-half or more of any pay period constitute employment as otherwise defined in this law, all the services performed during such period shall be deemed to be employment; but if the services performed during more than one-half of any such pay period do not constitute employment as otherwise defined in this law, then none of the services for such period shall be deemed to be employment. (As used in this subsection, the term "pay period" means a period of not more than thirty-one consecutive days for which a payment of remuneration is ordinarily made to the individual by the employing unit employing such individual.) This subsection shall not be applicable with respect to service performed in a pay period where any such service is excluded pursuant to subdivision [(7)] **(8)** of subsection 12 of this section.

15. The term "employment" shall not include the services of a full-time student who performed such services in the employ of an organized summer camp for less than thirteen calendar weeks in such calendar year.

16. For the purpose of subsection 15 of this section, an individual shall be treated as a full-time student for any period:

(1) During which the individual is enrolled as a full-time student at an educational institution; or

(2) Which is between academic years or terms if:

(a) The individual was enrolled as a full-time student at an educational institution for the immediately preceding academic year or term; and

(b) There is a reasonable assurance that the individual will be so enrolled for the immediately succeeding academic year or term after the period described in paragraph (a) of this subdivision.

17. For the purpose of subsection 15 of this section, an "organized summer camp" shall mean a summer camp which:

(1) Did not operate for more than seven months in the calendar year and did not operate for more than seven months in the preceding calendar year; or

(2) Had average gross receipts for any six months in the preceding calendar year which were not more than thirty-three and one-third percent of its average gross receipts for the other six months in the preceding calendar year.

18. The term "employment" shall not mean service performed by a remodeling salesperson acting as an independent contractor; however, if the federal Internal Revenue Service determines that a contractual relationship between a direct provider and an individual acting as an independent contractor pursuant to the provisions of this subsection is in fact an employer-employee relationship for the purposes of federal law, then that relationship shall be considered as an employer-employee relationship for the purposes of this chapter.

288.036. 1. "Wages" means all remuneration, payable or paid, for personal services including commissions and bonuses and, except as provided in subdivision (8) of this section, the cash value of all remuneration paid in any medium other than cash. Gratuities, including tips received from persons other than the employing unit, shall be considered wages only if required to be reported as wages pursuant to the Federal Unemployment Tax Act, 26 U.S.C. Sec. 3306, and shall be, for the purposes of this chapter, treated as having been paid by the employing unit. Severance pay shall be considered as wages to the extent required pursuant to the Federal Unemployment Tax Act, 26 U.S.C. Section 3306(b). Vacation pay and holiday pay shall be considered as wages for the week with respect to which it is payable. The term "wages" shall not include:

(1) For the purposes of determining the amount of contributions due and contribution rates, that part of the remuneration for employment paid to an individual by an employer or the employer's predecessors which is in excess of [seven thousand dollars for the calendar years 1988 through 1992, seven thousand five hundred dollars for the calendar year 1993, eight thousand five hundred dollars for the calendar years 1994, 1995 and 1996, eight thousand dollars for calendar year 1997, and eight thousand five hundred dollars for the calendar year 1998, and] the state taxable wage base as determined in subsection 2 of this section for calendar year [1999] **2002, and the state taxable wage base as determined in subsection 3 of this section for calendar year 2003**, and each calendar year thereafter, unless that part of the remuneration is subject to a tax pursuant to a federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund; [except that:

(a) In addition to the taxable wage, as defined in this subdivision, if on December 31, 1995, or on any December thirty-first thereafter, the balance in the unemployment insurance trust fund, less any federal advances, is less than one hundred million dollars, then the amount of the taxable wage then in effect shall be increased by five hundred dollars for all succeeding calendar years;

(b) If on December 31, 1995, or any December thirty-first thereafter, the balance in the

28 unemployment insurance trust fund, less any federal advances, is two hundred and fifty million
29 dollars or more, then the amount of the taxable wage then in effect shall be reduced by five
30 hundred dollars, but not below that part of the remuneration which is subject to a tax pursuant
31 to a federal law imposing a tax against which credit may be taken for contributions required to
32 be paid into a state unemployment fund;]

33 (2) The amount of any payment made (including any amount paid by an employing unit
34 for insurance or annuities, or into a fund, to provide for any such payment) to, or on behalf of,
35 an individual under a plan or system established by an employing unit which makes provision
36 generally for individuals performing services for it or for a class or classes of such individuals,
37 on account of:

38 (a) Sickness or accident disability, but in case of payments made to an employee or any
39 of the employee's dependents this paragraph shall exclude from the term "wages" only payments
40 which are received pursuant to a workers' compensation law; or

41 (b) Medical and hospitalization expenses in connection with sickness or accident
42 disability; or

43 (c) Death;

44 (3) The amount of any payment on account of sickness or accident disability, or medical
45 or hospitalization expenses in connection with sickness or accident disability, made by an
46 employing unit to, or on behalf of, an individual performing services for it after the expiration
47 of six calendar months following the last calendar month in which the individual performed
48 services for such employing unit;

49 (4) The amount of any payment made by an employing unit to, or on behalf of, an
50 individual performing services for it or his or her beneficiary:

51 (a) From or to a trust described in 26 U.S.C. 401(a) which is exempt from tax pursuant
52 to 26 U.S.C. 501(a) at the time of such payment unless such payment is made to an employee
53 of the trust as remuneration for services rendered as such an employee and not as a beneficiary
54 of the trust; or

55 (b) Under or to an annuity plan which, at the time of such payments, meets the
56 requirements of section 404(a)(2) of the Federal Internal Revenue Code (26 U.S.C.A. Sec. 404);

57 (5) The amount of any payment made by an employing unit (without deduction from the
58 remuneration of the individual in employment) of the tax imposed pursuant to section 3101 of
59 the Federal Internal Revenue Code (26 U.S.C.A. Sec. 3101) upon an individual with respect to
60 remuneration paid to an employee for domestic service in a private home or for agricultural
61 labor;

62 (6) Remuneration paid in any medium other than cash to an individual for services not
63 in the course of the employing unit's trade or business;

64 (7) Remuneration paid in the form of meals provided to an individual in the service of
65 an employing unit where such remuneration is furnished on the employer's premises and at the
66 employer's convenience, except that remuneration in the form of meals that is considered wages
67 and required to be reported as wages pursuant to the Federal Unemployment Tax Act, 26 U.S.C.
68 Sec. 3306 shall be reported as wages as required thereunder;

69 (8) For the purpose of determining wages paid for agricultural labor as defined in
70 paragraph (b) of subdivision (1) of subsection 12 of section 288.034 and for domestic service as
71 defined in subsection 13 of section 288.034, only cash wages paid shall be considered;

72 (9) Beginning on October 1, 1996, any payment to, or on behalf of, an employee or the
73 employee's beneficiary under a cafeteria plan, if such payment would not be treated as wages
74 pursuant to the Federal Unemployment Tax Act.

75 2. The increases or decreases to the state taxable wage base for calendar year [1999, and
76 each calendar year thereafter,] **2002** shall be determined by the provisions within this subsection.
77 The state taxable wage base for calendar year [1999, and each calendar year thereafter,] **2002**
78 shall be determined by the preceding September thirtieth balance of the unemployment
79 compensation trust fund, less any outstanding federal Title XII advances received pursuant to
80 section 288.330. When the September thirtieth unemployment compensation trust fund balance,
81 less any outstanding federal Title XII advances received pursuant to section 288.330, is:

82 (1) Less than, or equal to, three hundred million dollars, then the wage base shall
83 increase by five hundred dollars; or

84 (2) Four hundred fifty million or more, then the state taxable wage base for the
85 subsequent calendar year shall be decreased by five hundred dollars. In no event, however, shall
86 the state taxable wage base increase beyond ten thousand five hundred dollars, or decrease to less
87 than seven thousand dollars.

88

89 For any calendar year, the state taxable wage base shall not be reduced to less than that part of
90 the remuneration which is subject to a tax under a federal law imposing a tax against which
91 credit may be taken for contributions required to be paid into a state unemployment
92 compensation trust fund.

93 **3. Effective calendar year 2003, and each calendar year thereafter, the taxable wage**
94 **base shall be fifty percent of the Missouri average annual wage for the second preceding**
95 **calendar year as determined by the division, rounded to the nearest multiple of five**
96 **hundred dollars. The state taxable wage base shall be determined each September thirtieth**
97 **for the succeeding calendar year. For any calendar year, the state taxable wage base shall**
98 **not be reduced to less than that part of the remuneration which is subject to a tax under**
99 **a federal law imposing a tax against which credit may be taken for contributions required**

100 to be paid into a state unemployment compensation trust fund.

288.037. 1. The term "employer" shall include any Indian tribe for which service
2 in employment as defined in section 288.034 is performed.

3 2. The term "employment" shall include service performed in the employ of an
4 Indian tribe, as defined in Section 3306(u) of the Federal Unemployment Tax Act (FUTA),
5 provided such service is excluded from "employment" as defined in FUTA solely by reason
6 of Section 3306(c)(7), FUTA, and is not otherwise excluded from "employment" under this
7 chapter. For purposes of this section, the exclusions from employment in subsection 9 of
8 section 288.034 shall be applicable to services performed in the employ of an Indian tribe.

9 3. Benefits based on service in employment defined in this section shall be payable
10 in the same amount, on the same terms, and subject to the same conditions as benefits
11 payable on the basis of other service subject to this chapter. The provisions of subsection
12 3 of section 288.040 pertaining to services performed at an educational institution while in
13 the employ of an "educational service agency" shall apply to services performed in an
14 educational institution or educational service agency wholly owned and operated by an
15 Indian tribe or tribal unit.

16 4. (1) Indian tribes or tribal units, including subdivisions, subsidiaries, or business
17 enterprises wholly owned by such Indian tribes, subject to this chapter shall pay
18 contributions under the same terms and conditions as all other subject employers, unless
19 they elect to pay into the state unemployment fund amounts equal to the amount of benefits
20 attributable to service in the employ of the Indian tribe. An Indian tribe and all tribal
21 units of such Indian tribe shall be jointly and severally liable for any and all contributions,
22 payments in lieu of contributions, interest, penalties, and surcharges owed by the Indian
23 tribe and all tribal units of such Indian tribe.

24 (2) Indian tribes electing to make payments in lieu of contributions must make such
25 election in the same manner and under the same conditions as provided in subsection 3 of
26 section 288.090 pertaining to state and local governments and nonprofit organizations
27 subject to this chapter. Indian tribes will determine if reimbursement for benefits paid will
28 be elected by the tribe as a whole, by individual tribal units, or by combinations of
29 individual tribal units. Termination of an Indian tribe's coverage pursuant to subdivision
30 (5) of this subsection shall terminate the election of such Indian tribe and any tribal units
31 of such Indian tribe to make payments in lieu of contributions.

32 (3) Indian tribes or tribal units will be billed for the full amount of benefits
33 attributable to service in the employ of the Indian tribe or tribal unit on the same schedule
34 as other employing units that have elected to make payments in lieu of contributions.

35 (4) Any Indian tribe or tribal unit that elects to become liable for payments in lieu

36 of contributions shall be required, prior to the effective date of its election, to post with the
37 division a surety bond issued by a corporate surety authorized to do business in Missouri
38 in an amount equivalent to the contributions or payments in lieu of contributions for which
39 the Indian tribe or tribal unit was liable in the last calendar year in which it accrued
40 contributions or payments in lieu of contributions, or one hundred thousand dollars,
41 whichever amount is the greater, to ensure prompt payment of contributions or payments
42 in lieu of contributions, interest, penalties, and surcharges for which the Indian tribe or
43 tribal unit may be, or becomes, jointly and severally liable pursuant to this chapter.

44 (5) Failure of the Indian tribe or tribal unit to maintain the required surety bond,
45 including the posting of an additional surety bond or a replacement surety bond within
46 ninety days of being directed by the division, will cause services performed for such Indian
47 tribe to not be treated as "employment" for purposes of subsection 2 of this section.

48 (6) The director may determine that any Indian tribe that loses coverage under
49 subdivision (5) of this subsection, may have services performed for such tribe again
50 included as "employment" for purposes of subsection 2 of this section if all contributions,
51 payments in lieu of contributions, penalties, and interest have been paid. Upon
52 reinstatement of coverage under this subdivision, an Indian tribe or any tribal unit may
53 elect, in accordance with the provisions of this subsection, to make payments in lieu of
54 contributions.

55 (7) If an Indian tribe fails to maintain the required surety bond by posting an
56 additional surety bond or a replacement surety bond within ninety days of being directed
57 by the division, the director will immediately notify the United States Internal Revenue
58 Service and the United States Department of Labor.

59 (8) Notices of surety bond deficiency to Indian tribes or their tribal units shall
60 include information that failure to post an additional surety bond or a replacement surety
61 bond within the prescribed time frame:

62 (a) Will cause the Indian tribe to be liable for taxes under FUTA;

63 (b) Will cause the Indian tribe to be excepted from the definition of "employer,"
64 as provided in subsection 1 of this section, and services in the employ of the Indian tribe,
65 as provided in subsection 2 of this section, to be excepted from "employment".

66 5. (1) Failure of the Indian tribe or tribal unit to make required payments,
67 including assessments of interest and penalty, within ninety days of receipt of the bill will
68 cause services performed for such Indian tribe to not be treated as "employment" for
69 purposes of subsection 2 of this section.

70 (2) The director may determine that any Indian tribe that loses coverage under
71 subdivision (1) of this subsection, may have services performed for such tribe again

72 included as "employment" for purposes of subsection 2 of this section if all contributions,
73 payments in lieu of contributions, penalties, and interest have been paid.

74 (3) If an Indian tribe fails to make payments required under this section, including
75 assessments of interest and penalty, within ninety days of a final notice of delinquency, the
76 director will immediately notify the United States Internal Revenue Service and the United
77 States Department of Labor.

78 6. Notices of payment and reporting delinquency to Indian tribes or their tribal
79 units shall include information that failure to make full payment within the prescribed
80 time frame:

81 (1) Will cause the Indian tribe to be liable for taxes under FUTA;

82 (2) Will cause the Indian tribe to be excepted from the definition of "employer",
83 as provided in subsection 1 of this section, and services in the employ of the Indian tribe,
84 as provided in subsection 2 of this section, to be excepted from "employment".

85 7. Extended benefits paid that are attributable to service in the employ of an Indian
86 tribe and not reimbursed by the federal government shall be financed in their entirety by
87 such Indian tribe.

288.038. With respect to initial claims [filed] **with an effective date** during calendar
2 [years 1998, 1999, 2000 and 2001 and each calendar year thereafter] **year 2002**, the "maximum
3 weekly benefit amount" means four percent of the total wages paid to an eligible insured worker
4 during that quarter of the worker's base period in which the worker's wages were the highest, but
5 the maximum weekly benefit amount shall not exceed [two hundred five dollars in the calendar
6 year 1998, two hundred twenty dollars in the calendar year 1999, two hundred thirty-five dollars
7 in the calendar year 2000, and] two hundred fifty dollars [in the calendar year 2001, and each
8 calendar year thereafter]. **With respect to initial claims with an effective date after calendar**
9 **year 2002, the maximum weekly benefit amount shall not exceed fifty percent of the**
10 **Missouri average weekly wage as defined in subsection 2 of section 288.030, but in no event**
11 **shall this percentage limitation cause the maximum weekly benefit amount to be less than**
12 **two hundred seventy-five dollars.** If such benefit amount is not a multiple of [one dollar] **five**
13 **dollars**, such amount shall be reduced to the nearest [lower full] **five** dollar amount.

288.060. 1. All benefits shall be paid through employment offices in accordance with
2 such regulations as the division may prescribe.

3 2. Each eligible insured worker who is totally unemployed in any week shall be paid for
4 such week a sum equal to his **or her** weekly benefit amount.

5 3. Each eligible insured worker who is partially unemployed in any week shall be paid
6 for such week a partial benefit. **For weeks claimed which begin in calendar year 2002**, such
7 partial benefit shall be an amount equal to the difference between [his] **the claimant's** weekly

8 benefit amount and that part of his **or her** wages for such week in excess of twenty dollars, and,
9 if such partial benefit amount is not a multiple of one dollar, such amount shall be reduced to the
10 nearest lower full dollar amount. **For weeks claimed which begin after calendar year 2002,**
11 **such partial benefit shall be an amount equal to the difference between the claimant's**
12 **weekly benefit amount and that amount of his or her wages for such week in excess of**
13 **twenty percent of the maximum state weekly benefit amount in effect as of the first day of**
14 **the week being claimed and, if such partial benefit amount is not a multiple of one dollar,**
15 **such amount shall be reduced to the nearest lower full dollar amount. Vacation pay,**
16 termination pay, severance pay or pay received by an eligible insured worker who is a member
17 of the organized militia for training or duty authorized by section 502(a)(1) of Title 32, United
18 States Code, or who is an elected official shall not be considered wages for the purpose of this
19 subsection.

20 4. The division shall compute the wage credits for each individual by crediting him **or**
21 **her** with the wages paid to him **or her** for insured work during each quarter of his **or her** base
22 period or twenty-six times his **or her** weekly benefit amount, whichever is the lesser. In
23 addition, if a claimant receives wages in the form of termination pay or severance pay and such
24 payment appears in a base period established by the filing of an initial claim, the claimant may,
25 at his **or her** option, choose to have such payment included in the calendar quarter in which it
26 was paid or choose to have it prorated equally among the quarters comprising the base period of
27 the claim. The maximum total amount of benefits payable to any insured worker during any
28 benefit year shall not exceed twenty-six times his **or her** weekly benefit amount, or thirty-three
29 and one-third percent of his **or her** wage credits, whichever is the lesser. For the purpose of this
30 section, wages shall be counted as wage credits for any benefit year, only if such benefit year
31 begins subsequent to the date on which the employing unit by whom such wages were paid has
32 become an employer. The wage credits of an individual earned during the period commencing
33 with the end of a prior base period and ending on the date on which he **or she** filed an allowed
34 initial claim shall not be available for benefit purposes in a subsequent benefit year unless, in
35 addition thereto, such individual has subsequently earned either wages for insured work in an
36 amount equal to at least five times his **or her** current weekly benefit amount or wages in an
37 amount equal to at least ten times his **or her** current weekly benefit amount.

38 5. In the event that benefits are due a deceased person and no petition has been filed for
39 the probate of the will or for the administration of the estate of such person within thirty days
40 after his **or her** death, the division may by regulation provide for the payment of such benefits
41 to such person or persons as the division finds entitled thereto and every such payment shall be
42 a valid payment to the same extent as if made to the legal representatives of the deceased.

43 6. The division is authorized to cancel any benefit warrant remaining outstanding and

44 unpaid one year after the date of its issuance and there shall be no liability for the payment of any
45 such benefit warrant thereafter.

46 7. The division may establish an electronic funds transfer system to transfer directly to
47 claimants' accounts in financial institutions benefits payable to them pursuant to this chapter.
48 To receive benefits by electronic funds transfer, a claimant shall satisfactorily complete a direct
49 deposit application form authorizing the division to deposit benefit payments into a designated
50 checking or savings account. Any electronic funds transfer system created pursuant to this
51 subsection shall be administered in accordance with regulations prescribed by the division.

52 8. The division may issue a benefit warrant covering more than one week of benefits.

288.090. 1. Contributions shall accrue and become payable by each employer for each
2 calendar year in which he is subject to this law. Such contributions shall become due and be paid
3 by each employer to the division for the fund on or before the last day of the month following
4 each calendar quarterly period of three months except when regulation requires monthly
5 payment. Any employer upon application, or pursuant to a general or special regulation, may
6 be granted an extension of time, not exceeding three months, for the making of his quarterly
7 contribution and wage reports or for the payment of such contributions. Payment of
8 contributions due shall be made to the treasurer designated pursuant to section 288.290.

9 (1) In the payment of any contributions due, a fractional part of a cent shall be
10 disregarded unless it amounts to one-half cent or more, in which case it shall be increased to one
11 cent;

12 (2) Contributions shall not be deducted in whole or in part from the wages of individuals
13 in employment.

14 2. As of June thirtieth of each year, the division shall establish an average industry
15 contribution rate for the next succeeding calendar year for each of the industrial classification
16 divisions listed in the [Standard Industrial Classification Manual furnished] **industrial**
17 **classification system established** by the federal government. The average industry contribution
18 rate for each [standard] industrial classification division shall be computed by multiplying total
19 taxable wages paid by each employer in the industrial classification division during the twelve
20 consecutive months ending on June thirtieth by the employer's contribution rate established for
21 the next calendar year and dividing the aggregate product for all employers in the industrial
22 classification division by the total of taxable wages paid by all employers in the industrial
23 classification division during the twelve consecutive months ending on June thirtieth. Each
24 employer will be assigned to [a standard] **an** industrial classification code division as determined
25 by the division in accordance with the definitions contained in the [Standard Industrial
26 Classification Manual] **industrial classification system established by the federal**
27 **government**, and shall pay contributions at the average industry rate established for the

28 preceding calendar year for the industrial classification division to which it is assigned or two
29 and seven-tenths percent of taxable wages paid by it, whichever is the greater, unless there have
30 been at least twelve consecutive calendar months immediately preceding the calculation date
31 throughout which its account could have been charged with benefits. The division shall classify
32 all employers meeting this chargeability requirement for each calendar year in accordance with
33 their actual experience in the payment of contributions on their own behalf and with respect to
34 benefits charged against their accounts, with a view to fixing such contribution rates as will
35 reflect such experience. The division shall determine the contribution rate of each such employer
36 in accordance with sections 288.113 to 288.126. Notwithstanding the provisions of this
37 subsection, any employing unit which becomes an employer pursuant to the provisions of
38 subsection 7 or 8 of section 288.034 shall pay contributions equal to one percent of wages paid
39 by it until its account has been chargeable with benefits for the period of time sufficient to enable
40 it to qualify for a computed rate on the same basis as other employers.

41 3. Benefits paid to employees of any governmental entity and nonprofit organizations
42 shall be financed in accordance with the provisions of this subsection. For the purpose of this
43 subsection, a "nonprofit organization" is an organization (or group of organizations) described
44 in Section 501(c)(3) of the United States Internal Revenue Code which is exempt from income
45 tax under Section 501(a) of such code.

46 (1) A governmental entity which, pursuant to subsection 7 of section 288.034, or
47 nonprofit organization which, pursuant to subsection 8 of section 288.034, is, or becomes,
48 subject to this law on or after April 27, 1972, shall pay contributions due under the provisions
49 of subsections 1 and 2 of this section unless it elects, in accordance with this subdivision, to pay
50 to the division for the unemployment compensation fund an amount equal to the amount of
51 regular benefits and of one-half of the extended benefits paid, that is attributable to service in the
52 employ of such governmental entity or nonprofit organization, to individuals for weeks of
53 unemployment which begin during the effective period of such election; except that, with respect
54 to benefits paid for weeks of unemployment beginning on or after January 1, 1979, any such
55 election by a governmental entity shall be to pay to the division for the unemployment
56 compensation fund an amount equal to the amount of all regular benefits and all extended
57 benefits paid that is attributable to service in the employ of such governmental entity.

58 (a) A governmental entity or nonprofit organization which is, or becomes, subject to this
59 law on or after April 27, 1972, may elect to become liable for payments in lieu of contributions
60 for a period of not less than one calendar year, provided it files with the division a written notice
61 of its election within the thirty-day period immediately following the date of the determination
62 of such subjectivity. The provisions of paragraphs (a) through (e) of subdivision (4) of
63 subsection 1 of section 288.100 shall not apply in the calendar year 1998 and each calendar year

64 thereafter, in the case of an employer who has elected to become liable for payments in lieu of
65 contributions.

66 (b) A governmental entity or nonprofit organization which makes an election in
67 accordance with paragraph (a) of this subdivision will continue to be liable for payments in lieu
68 of contributions until it files with the division a written notice terminating its election not later
69 than thirty days prior to the beginning of the calendar year for which such termination shall first
70 be effective.

71 (c) A governmental entity or any nonprofit organization which has been paying
72 contributions under this law for a period subsequent to January 1, 1972, may change to a
73 reimbursable basis by filing with the division not later than thirty days prior to the beginning of
74 any calendar year a written notice of election to become liable for payments in lieu of
75 contributions. Such election shall not be terminable by the organization for that and the next
76 calendar year.

77 (d) The division, in accordance with such regulations as may be adopted, shall notify
78 each governmental entity or nonprofit organization of any determination of its status of an
79 employer and of the effective date of any election which it makes and of any termination of such
80 election. Such determination shall be subject to appeal as is provided in subsection 4 of section
81 288.130.

82 (2) Payments in lieu of contributions shall be made in accordance with the provisions
83 of paragraph (a) of this subdivision, as follows:

84 (a) At the end of each calendar quarter, or at the end of any other period as determined
85 by the director, the division shall bill the governmental entity or nonprofit organization (or group
86 of such organizations) which has elected to make payments in lieu of contributions for an amount
87 equal to the full amount of regular benefits plus one-half of the amount of extended benefits paid
88 during such quarter or other prescribed period that is attributable to service in the employ of such
89 organization; except that, with respect to extended benefits paid for weeks of unemployment
90 beginning on or after January 1, 1979, which are attributable to service in the employ of a
91 governmental entity, the governmental entity shall be billed for the full amount of such extended
92 benefits.

93 (b) Payment of any bill rendered under paragraph (a) of this subdivision shall be due and
94 shall be made not later than thirty days after such bill was mailed to the last known address of
95 the governmental entity or nonprofit organization or was otherwise delivered to it.

96 (c) Payments made by the governmental entity or nonprofit organization under the
97 provisions of this subsection shall not be deducted or deductible, in whole or in part, from the
98 remuneration of individuals in the employ of the organization.

99 (d) Past due payments of amounts in lieu of contributions shall be subject to the same

100 interest and penalties that apply to past due contributions. Also, unpaid amounts in lieu of
101 contributions, interest, penalties and surcharges are subject to the same assessment, civil action
102 and compromise provisions of this law as apply to unpaid contributions. Further, the provisions
103 of this law which provide for the adjustment or refund of contributions shall apply to the
104 adjustment or refund of payments in lieu of contributions.

105 (3) If any governmental entity or nonprofit organization fails to timely file a required
106 quarterly wage report, the division shall assess such entity or organization a penalty as provided
107 in subsections 1 and 2 of section 288.160.

108 (4) Except as provided in subsection 4 of this section, each employer that is liable for
109 payments in lieu of contributions shall pay to the division for the fund the amount of regular
110 benefits plus the amount of one-half of extended benefits paid that are attributable to service in
111 the employ of such employer; except that, with respect to benefits paid for weeks of
112 unemployment beginning on or after January 1, 1979, a governmental entity that is liable for
113 payments in lieu of contributions shall pay to the division for the fund the amount of all regular
114 benefits and all extended benefits paid that are attributable to service in the employ of such
115 employer. If benefits paid to an individual are based on wages paid by more than one employer
116 in the base period of the claim, the amount chargeable to each employer shall be obtained by
117 multiplying the benefits paid by a ratio obtained by dividing the base period wages from such
118 employer by the total wages appearing in the base period.

119 (5) Two or more employers that have become liable for payments in lieu of
120 contributions, in accordance with the provisions of subdivision (1) of this subsection, may file
121 a joint application to the division for the establishment of a group account for the purpose of
122 sharing the cost of benefits paid that are attributable to service in the employ of such employers.
123 Each such application shall identify and authorize a group representative to act as the group's
124 agent for the purposes of this subdivision. Upon approval of the application, the division shall
125 establish a group account for such employers effective as of the beginning of the calendar quarter
126 in which the application was received and shall notify the group's representative of the effective
127 date of the account. Such account shall remain in effect for not less than two years and thereafter
128 until terminated at the discretion of the director or upon application by the group. Upon
129 establishment of the account, each member of the group shall be liable for payments in lieu of
130 contributions with respect to each calendar quarter in the amount that bears the same ratio to the
131 total benefits paid in such quarter that are attributable to service performed in the employ of all
132 members of the group as the total wages paid for service in employment by such member in such
133 quarter bears to the total wages paid during such quarter for service performed in the employ of
134 all members of the group. The director shall prescribe such regulations as he deems necessary
135 with respect to applications for establishment, maintenance and termination of group accounts

that are authorized by this subdivision, for addition of new members to, and withdrawal of active members from, such accounts, and for the determination of the amounts that are payable under this subdivision by members of the group and the time and manner of such payments.

4. Any employer which elects to make payments in lieu of contributions into the unemployment compensation fund as provided in subdivision (1) of subsection 3 of this section shall not be liable to make such payments with respect to the benefits paid to any individual whose base period wages include wages for previous work not classified as insured work as defined in section 288.030 to the extent that the unemployment compensation fund is reimbursed for such benefits pursuant to Section 121 of Public Law 94-566.

5. Any employer which elects to make payments in lieu of contributions pursuant to subsection 3 of this section shall be liable for an additional surcharge to the division for the unemployment compensation trust fund in an amount equal to the interest rate on United States treasury bills, averaged for the previous four calendar quarters, multiplied by the total benefit payments charged to the employer's account. Governmental entities except cities, counties and the state of Missouri which elect to make payments in lieu of contributions pursuant to subsection 3 of this section shall be liable for an additional surcharge to the division for the unemployment compensation fund in an amount equal to one-half of the interest rate on United States treasury bills, averaged for the previous four calendar quarters, multiplied by the total benefit payments charged to the employer's account. The cumulative benefits charged plus the cumulative surcharges pursuant to this subsection for all employers electing to make payments in lieu of contributions shall not exceed the summation of total benefit payments chargeable and not chargeable for the calendar quarter. The provisions of this subsection shall not be effective after September 30, 1993.

6. Beginning October 1, 1993, through December 31, 1993, any employer which elects to make payments in lieu of contributions pursuant to subsection 3 of this section shall be liable for an additional surcharge to the division for the unemployment compensation trust fund in an amount equal to the interest rate of United States treasury bills, averaged for the previous four calendar quarters, multiplied by the total benefit payments charged to the employer's account. The cumulative benefits charged plus the cumulative surcharges pursuant to this subsection for all employers electing to make payments in lieu of contributions shall not exceed the summation of total benefit payments chargeable and not chargeable for the calendar quarter.

7. Beginning January 1, 1994, through December 31, 1995, any employer which elects to make payments in lieu of contributions pursuant to subsection 3 of this section shall be liable for an additional surcharge to the division for the unemployment compensation trust fund. The calendar year surcharge rate will be the base prime rate on corporate loans posted by at least seventy-five percent of the nation's thirty largest banks as of November thirtieth of the preceding

year. The additional surcharge will be the surcharge rate multiplied by the total benefit payments charged to the employer's account. The cumulative benefits charged plus the cumulative surcharges pursuant to this subsection for all employers electing to make payments in lieu of contributions shall not exceed the summation of total benefit payments chargeable and not chargeable for the calendar quarter.

8. Beginning January 1, 1996, through December 31, 1996, any employer which elects to make payments in lieu of contributions pursuant to subsection 3 of this section shall be liable for the total benefit payments chargeable to its account pursuant to the provisions of section 288.100 plus one-third of the total benefit payments not charged to its account pursuant to paragraphs (a) through (e) of subdivision (4) of subsection 1 of section 288.100. The remaining two-thirds of the benefit payments not charged to its account pursuant to paragraphs (a) through (e) of subdivision (4) of subsection 1 of section 288.100 shall be paid by the unemployment compensation trust fund.

9. Beginning January 1, 1997, through December 31, 1997, any employer which elects to make payments in lieu of contributions pursuant to subsection 3 of this section shall be liable for the total benefit payments chargeable to its account pursuant to the provisions of section 288.100 plus two-thirds of the total benefit payments not charged to its account pursuant to paragraphs (a) through (e) of subdivision (4) of subsection 1 of section 288.100. The remaining one-third of the benefit payments not charged to its account pursuant to paragraphs (a) through (e) of subdivision (4) of subsection 1 of section 288.100 shall be paid by the unemployment compensation trust fund.

10. Beginning January 1, 1998, and each calendar year thereafter, any employer which elects to make payments in lieu of contributions pursuant to subsection 3 of this section shall be liable for all benefit payments and shall not have charges relieved pursuant to the provisions of paragraphs (a) through (e) of subdivision (4) of subsection 1 of section 288.100.

11. (1) For the purposes of this chapter, a common paymaster arrangement will not exist unless approval has been obtained from the division. To receive a division-approved common paymaster arrangement, the related corporation designated to be the common paymaster for the related corporations must notify the division in writing at least thirty days prior to the beginning of the quarter in which the common paymaster reporting is to be effective. The common paymaster shall furnish the name and account number of each corporation in the related group that will be utilizing the one corporation as the common paymaster. The common paymaster shall also notify the division at least thirty days prior to any change in the related group of corporations or termination of the common paymaster arrangement. The common paymaster shall be responsible for keeping books and records for the payroll with respect to its own employees and the concurrently employed individuals of the related corporations. In order for

208 remuneration to be eligible for the provisions applicable to a common paymaster, the individuals
209 must be concurrently employed and the remuneration must be disbursed through the common
210 paymaster. The common paymaster shall have the primary responsibility for remitting all
211 required quarterly contribution and wage reports, contributions due with respect to the
212 remuneration it disburses as the common paymaster and/or payments in lieu of contributions.
213 The common paymaster shall compute the contributions due as though it were the sole employer
214 of the concurrently employed individuals. If the common paymaster fails to remit the quarterly
215 contribution and wage reports, contributions due and/or payments in lieu of contributions, in
216 whole or in part, it shall remain liable for submitting the quarterly contribution and wage reports
217 and the full amount of the unpaid portion of the contributions due and/or payments in lieu of
218 contributions. In addition, each of the related corporations using the common paymaster shall
219 be jointly and severally liable for submitting quarterly contribution and wage reports, its share
220 of the contributions due and/or payments in lieu of contributions, penalties, interest and
221 surcharges which are not submitted and/or paid by the common paymaster. All contributions
222 due, payments in lieu of contributions, penalties, interest and surcharges which are not timely
223 paid to the division under a common paymaster arrangement shall be subject to the collection
224 provisions of this chapter.

225 (2) For the purposes of this subsection, "concurrent employment" means the
226 simultaneous existence of an employment relationship between an individual and two or more
227 related corporations for any calendar quarter in which employees are compensated through a
228 common paymaster which is one of the related corporations, those corporations shall be
229 considered one employing unit and be subject to the provisions of this chapter.

230 (3) For the purposes of this subsection, "related corporations" means that corporations
231 shall be considered related corporations for an entire calendar quarter if they satisfy any one of
232 the following tests at any time during the calendar quarter:

233 (a) The corporations are members of a "controlled group of corporations". The term
234 "controlled group of corporations" means:

235 a. Two or more corporations connected through stock ownership with a common parent
236 corporation, if the parent corporation owns stock possessing at least fifty percent of the total
237 combined voting power of all classes of stock entitled to vote or at least fifty percent of the total
238 value of shares of all classes of stock of each of the other corporations; or

239 b. Two or more corporations, if five or less persons who are individuals, estates or trusts
240 own stock possessing at least fifty percent of the total combined voting power of all classes of
241 stock entitled to vote or at least fifty percent of the total value of shares of all classes of stock of
242 each of the other corporations; or

243 (b) In the case of corporations which do not issue stock, at least fifty percent of the

244 members of one corporation's board of directors are members of the board of directors of the
245 other corporations; or

246 (c) At least fifty percent of one corporation's officers are concurrently officers of the
247 other corporations; or

248 (d) At least thirty percent of one corporation's employees are concurrently employees of
249 the other corporations.

288.100. 1. (1) The division shall maintain a separate account for each employer which
2 is paying contributions, and shall credit each employer's account with all contributions which
3 each employer has paid. A separate account shall be maintained for each employer making
4 payments in lieu of contributions to which shall be credited all such payments made. The
5 account shall also show payments due as provided in section 288.090. The division may close
6 and cancel such separate account after a period of four consecutive calendar years during which
7 such employer has had no employment in this state subject to contributions. Nothing in this law
8 shall be construed to grant any employer or individuals in the employer's service prior claims or
9 rights to the amounts paid by the employer into the fund either on the employer's own behalf or
10 on behalf of such individuals. Except as provided in subdivision (4) of this subsection, regular
11 benefits and that portion of extended benefits not reimbursed by the federal government paid to
12 an eligible individual shall be charged against the accounts of the individual's base period
13 employers who are paying contributions subject to the provisions of subdivision (4) of subsection
14 3 of section 288.090. With respect to initial claims filed after December 31, 1984, for benefits
15 paid to an individual based on wages paid by one or more employers in the base period of the
16 claim, the amount chargeable to each employer shall be obtained by multiplying the benefits paid
17 by a ratio obtained by dividing the base period wages from such employer by the total wages
18 appearing in the base period. Except as provided in paragraph (a) of this subdivision, the
19 maximum amount of extended benefits paid to an individual and charged against the account of
20 any employer shall not exceed one-half of the product obtained by multiplying the benefits paid
21 by a ratio obtained by dividing the base period wages from such employer by the total wages
22 appearing in the base period.

23 (a) The provisions of subdivision (1) of this subsection notwithstanding, with respect to
24 weeks of unemployment beginning after December 31, 1978, the maximum amount of extended
25 benefits paid to an individual and charged against the account of an employer which is an
26 employer pursuant to subdivision (3) of subsection 1 of section 288.032 and which is paying
27 contributions pursuant to subsections 1 and 2 of section 288.090 shall not exceed the calculated
28 entitlement for the extended benefit claim based upon the wages appearing within the base
29 period of the extended benefit claim.

30 (2) Beginning as of June 30, 1951, and as of June thirtieth of each year thereafter, any

31 unassigned surplus in the unemployment compensation fund which is five hundred thousand
32 dollars or more in excess of five-tenths of one percent of the total taxable wages paid by all
33 employers for the preceding calendar year as shown on the division's records on such June
34 thirtieth shall be credited on a pro rata basis to all employer accounts having a credit balance in
35 the same ratio that the balance in each such account bears to the total of the credit balances
36 subject to use for rate calculation purposes for the following year in all such accounts on the
37 same date. As used in this subdivision, the term "unassigned surplus" means the amount by
38 which the total cash balance in the unemployment compensation fund exceeds a sum equal to
39 the total of all employer credit account balances. The amount thus prorated to each separate
40 employer's account shall for tax rating purposes be considered the same as contributions paid by
41 the employer and credited to the employer's account for the period preceding the calculation date
42 except that no such amount can be credited against any contributions due or that may thereafter
43 become due from such employer.

44 (3) At the conclusion of each calendar quarter the division shall, within thirty days,
45 notify each employer by mail of the benefits paid to each claimant by week as determined by the
46 division which have been charged to such employer's account subsequent to the last notice.

47 (4) (a) No benefits based on wages paid for services performed prior to the date of any
48 act for which a claimant is disqualified pursuant to section 288.050 shall be chargeable to any
49 employer directly involved in such disqualifying act.

50 (b) In the event the deputy has in due course determined pursuant to paragraph (a) of
51 subdivision (1) of subsection 1 of section 288.050 that a claimant quit his work with an employer
52 for the purpose of accepting a more remunerative job with another employer which the claimant
53 did accept and earn some wages therein, no benefits based on wages paid prior to the date of the
54 quit shall be chargeable to the employer the claimant quit.

55 (c) In the event the deputy has in due course determined pursuant to paragraph (b) of
56 subdivision (1) of subsection 1 of section 288.050 that a claimant quit temporary work in
57 employment with an employer to return to the claimant's regular employer, then, only for the
58 purpose of charging base period employers, all of the wages paid by the employer who furnished
59 the temporary employment shall be combined with the wages actually paid by the regular
60 employer as if all such wages had been actually paid by the regular employer. Further, charges
61 for benefits based on wages paid for part-time work shall be removed from the account of the
62 employer furnishing such part-time work if that employer continued to employ the individual
63 claiming such benefits on a regular recurring basis each week of the claimant's claim to at least
64 the same extent that the employer had previously employed the claimant and so informs the
65 division within thirty days from the date of notice of benefit charges.

66 (d) No charge shall be made against an employer's account in respect to benefits paid an

67 individual if the gross amount of wages paid by such employer to such individual is four hundred
68 dollars or less during the individual's base period on which the individual's benefit payments are
69 based. Further, no charge shall be made against any employer's account in respect to benefits
70 paid any individual unless such individual was in employment with respect to such employer
71 longer than a probationary period of twenty-eight days, if such probationary period of
72 employment has been reported to the division as required by regulation.

73 (e) In the event the deputy has in due course determined pursuant to paragraph (c) of
74 subdivision (1) of subsection 1 of section [228.050] **288.050** that a claimant is not disqualified,
75 no benefits based on wages paid for work prior to the date of the quit shall be chargeable to the
76 employer the claimant quit.

77 (f) Nothing in paragraph (b), (c), (d) or (e) of this subdivision shall in any way affect the
78 benefit amount, duration of benefits or the wage credits of the claimant.

79 2. The division may prescribe regulations for the establishment, maintenance, and
80 dissolution of joint accounts by two or more employers, and shall, in accordance with such
81 regulations and upon application by two or more employers to establish such an account, or to
82 merge their several individual accounts in a joint account, maintain such joint account as if it
83 constituted a single employer's account.

84 3. The division may by regulation provide for the compilation and publication of such
85 data as may be necessary to show the amounts of benefits not charged to any individual
86 employer's account classified by reason no such charge was made and to show the types and
87 amounts of transactions affecting the unemployment compensation fund.

288.110. Any individual, type of organization or employing unit which has acquired
2 substantially all of the business of an employer, excepting in any such case any assets retained
3 by such employer incident to the liquidation of his obligations, and in respect to which the
4 division finds that immediately after such change such business of the predecessor employer is
5 continued without interruption solely by the successor, shall stand in the position of such
6 predecessor employer in all respects, including the predecessor's separate account, actual
7 contribution and benefit experience, annual payrolls, and liability for current or delinquent
8 contributions, interest and penalties. If two or more individuals, organizations, or employing
9 units acquired at approximately the same time substantially all of the business of an employer
10 (excepting in any such case any assets retained by such employer incident to the liquidation of
11 his obligations) and in respect to which the division finds that immediately after such change all
12 portions of such business of the predecessor are continued without interruption solely by such
13 successors, each such individual, organization, or employing unit shall stand in the position of
14 such predecessor with respect to the proportionate share of the predecessor's separate account,
15 actual contribution and benefit experience and annual payroll as determined by the portion of the

16 predecessor's taxable payroll applicable to the portion of the business acquired, and each such
 17 individual, organization or employing unit shall be liable for current or delinquent contributions,
 18 interest and penalties of the predecessor in the same relative proportion. Further, any successor
 19 under this section which was not an employer at the time the acquisition occurred, shall pay
 20 contributions for the balance of the current rate year at the same contribution rate as the
 21 contribution rate of the predecessor whether such rate is more or less than two and seven-tenths
 22 percent, provided there was only one predecessor or there were only predecessors with identical
 23 rates. If the predecessors' rates were not identical, the division shall calculate a rate as of the date
 24 of acquisition applicable to the successor for the remainder of the rate year, which rate shall be
 25 based on the combined experience of all predecessor employers. In the event that any successor
 26 was, prior to an acquisition, an employer, and there is a difference in the contribution rate
 27 established for such calendar year applicable to any acquired or acquiring employer, the division
 28 shall make a recalculation [as of the date of acquisition] of the contribution rate applicable to any
 29 successor employer based upon the combined experience of all predecessor and successor
 30 employers[, which] **as of the date of the acquisition, unless the date of the acquisition is**
 31 **other than the first day of the calendar quarter. If the date of any such acquisition is other**
 32 **than the first day of the calendar quarter, the division shall make the recalculation of the**
 33 **rate on the first day of the next calendar quarter after the acquisition. When the date of**
 34 **the acquisition is other than the first day of a calendar quarter, the successor employer**
 35 **shall use its rate for the calendar quarter in which the acquisition was made. The revised**
 36 contribution rate shall apply to employment after the [date of any such acquisition] **rate**
 37 **recalculation.** For this purpose a calculation date different from July first may be established.
 38 When the division has determined that a successor or successors stand in the position of a
 39 predecessor employer, the predecessor's liability shall be terminated as of the date of the
 40 acquisition.

288.120. 1. On [each] June thirtieth **of 2002 and each year thereafter**, or within a
 2 reasonable time thereafter as may be fixed by regulation, the balance of an employer's experience
 3 rating account[, except an employer participating in a shared work plan under section 288.500,]
 4 shall determine [his] **the** contribution rate for the following calendar year [as determined] by the
 5 following table:

[Percentage the Employer's Experience Rating Account is to that Employer's Average Annual Payroll]		
8 Equals or Exceeds	Less Than	Contribution Rate
9 -----	-12.0	6.0%
10 -12.0	-11.0	5.8%
11 -11.0	-10.0	5.6%

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12	-10.0	-9.0	5.4%
13	-9.0	-8.0	5.2%
14	-8.0	-7.0	5.0%
15	-7.0	-6.0	4.8%
16	-6.0	-5.0	4.6%
17	-5.0	-4.0	4.4%
18	-4.0	-3.0	4.2%
19	-3.0	-2.0	4.0%
20	-2.0	-1.0	3.8%
21	-1.0	0	3.6%
22	0	2.5	2.7%
23	2.5	3.5	2.6%
24	3.5	4.5	2.5%
25	4.5	5.0	2.4%
26	5.0	5.5	2.3%
27	5.5	6.0	2.2%
28	6.0	6.5	2.1%
29	6.5	7.0	2.0%
30	7.0	7.5	1.9%
31	7.5	8.0	1.8%
32	8.0	8.5	1.7%
33	8.5	9.0	1.6%
34	9.0	9.5	1.5%
35	9.5	10.0	1.4%
36	10.0	10.5	1.3%
37	10.5	11.0	1.2%
38	11.0	11.5	1.1%
39	11.5	12.0	1.0%
40	12.0	12.5	0.9%
41	12.5	13.0	0.8%
42	13.0	13.5	0.6%
43	13.5	14.0	0.4%
44	14.0	14.5	0.3%
45	14.5	15.0	0.2%
46	15.0	---	0.0%

47 2. Using the same mathematical principles used in constructing the table provided in

subsection 1 of this section, the following table has been constructed. The contribution rate for the following calendar year of any employer participating in a shared work plan under section 288.500 during the current calendar year or any calendar year during a prior three-year period shall be determined from the balance in such employer's experience rating account as of the previous June thirtieth, or within a reasonable time thereafter as may be fixed by regulation, from the following table:]

Percentage the Employer's Experience Rating Account is to that Employer's Average Annual Payroll		
Equals or Exceeds	Less Than	Contribution Rate
-----	-27.0	9.0%
-27.0	-26.0	8.8%
-26.0	-25.0	8.6%
-25.0	-24.0	8.4%
-24.0	-23.0	8.2%
-23.0	-22.0	8.0%
-22.0	-21.0	7.8%
-21.0	-20.0	7.6%
-20.0	-19.0	7.4%
-19.0	-18.0	7.2%
-18.0	-17.0	7.0%
-17.0	-16.0	6.8%
-16.0	-15.0	6.6%
-15.0	-14.0	6.4%
-14.0	-13.0	6.2%
-13.0	-12.0	6.0%
-12.0	-11.0	5.8%
-11.0	-10.0	5.6%
-10.0	-9.0	5.4%
-9.0	-8.0	5.2%
-8.0	-7.0	5.0%
-7.0	-6.0	4.8%
-6.0	-5.0	4.6%
-5.0	-4.0	4.4%
-4.0	-3.0	4.2%
-3.0	-2.0	4.0%
-2.0	-1.0	3.8%

H.B. 1932

36

84	-1.0	0	3.6%
85	0	2.5	2.7%
86	2.5	3.5	2.6%
87	3.5	4.5	2.5%
88	4.5	5.0	2.4%
89	5.0	5.5	2.3%
90	5.5	6.0	2.2%
91	6.0	6.5	2.1%
92	6.5	7.0	2.0%
93	7.0	7.5	1.9%
94	7.5	8.0	1.8%
95	8.0	8.5	1.7%
96	8.5	9.0	1.6%
97	9.0	9.5	1.5%
98	9.5	10.0	1.4%
99	10.0	10.5	1.3%
100	10.5	11.0	1.2%
101	11.0	11.5	1.1%
102	11.5	12.0	1.0%
103	12.0	12.5	0.9%
104	12.5	13.0	0.8%
105	13.0	13.5	0.6%
106	13.5	14.0	0.4%
107	14.0	14.5	0.3%
108	14.5	15.0	0.2%
109	15.0	----	[0.0%] 0.1%

110 [3.] **2.** Notwithstanding the provisions of subsection 2 of section 288.090, any employer
 111 participating in a shared work plan under section 288.500, who has not had at least twelve
 112 calendar months immediately preceding the calculation date throughout which his account could
 113 have been charged with benefits shall have a contribution rate equal to the highest contribution
 114 rate in the table in subsection [2] **1** of this section, until such time as his account has been
 115 chargeable with benefits for the period of time sufficient to enable him to qualify for a computed
 116 rate on the same basis as other employers participating in shared work plans.

288.121. [On October first of each calendar year, if the average balance, less any federal
 2 advances, of the unemployment compensation trust fund of the four preceding quarters
 3 (September thirtieth, June thirtieth, March thirty-first and December thirty-first of the preceding

calendar year) is less than four hundred million dollars, then each employer's contribution rate calculated for the four calendar quarters of the succeeding calendar year shall be increased by the percentage determined from the following table:

Balance in Trust Fund		Percentage
Less Than	Equals or Exceeds	of Increase
\$400,000,000	\$350,000,000	10%
\$350,000,000	\$300,000,000	20%
\$300,000,000		30%

Notwithstanding the table in this section, each employer's contribution rate calculated for the four calendar quarters of calendar year 1994 shall be increased by forty percent, instead of thirty percent, as previously indicated in the table in this section. After the forty percent increase, each employer's contribution rate for the four calendar quarters of calendar year 1994 shall be increased by adding three-tenths of one percent.]

On October 1, 2002, and each year thereafter, a ratio shall be obtained by dividing the average balance of the unemployment compensation trust fund, less any federal advances, for the four preceding calendar quarters by the total wages paid in insured work in the second preceding calendar year. This ratio shall be used to determine the contribution rate adjustment for each year. If the ratio is one and four-tenths percent or less, then each employer's contribution rate calculated for the four calendar quarters of the succeeding calendar year shall be increased by the percentage determined from the following table:

Ratio	Ratio	Contribution Rate
Less Than or Equal To	Greater Than	Adjustment
	1.4%	0%
1.4%	1.3%	10%
1.3%	1.2%	20%
1.2%		30%

[288.122. On October first of each calendar year, if the average balance, less any federal advances, of the unemployment compensation trust fund of the four preceding quarters (September thirtieth, June thirtieth, March thirty-first and December thirty-first of the preceding calendar year) is more than five hundred million dollars, then each employer's contribution rate calculated for the four calendar quarters of the succeeding calendar year shall be decreased by the percentage determined from the following table:

8	Balance in Trust Fund		
9			Percentage
10	More Than	But Less Than	of Decrease
11	\$500,000,000	\$600,000,000	7%
12	\$600,000,000		12%
13			
14	Notwithstanding the table in this section, if the balance in the unemployment		
15	insurance compensation trust fund as calculated in this section is more than six		
16	hundred million dollars, the percentage of decrease of the employer's contribution		
17	rate calculated for the four calendar quarters of the succeeding calendar year shall be		
18	no greater than ten percent for any employer whose calculated contribution rate under		
19	section 288.120 is six percent or greater.]		

Section B. Because immediate action is necessary to provide for employment security
2 of the working citizens of this state, section A of this act is deemed necessary for the immediate
3 preservation of the public health, welfare, peace, and safety, and is hereby declared to be an
4 emergency act within the meaning of the constitution, and section A of this act shall be in full
5 force and effect on June 30, 2002, or upon its passage and approval, whichever occurs later.